



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSH WEBBER, et al.,

Plaintiffs,

- against -

DAMON ANTHONY DASH, et al.,

Defendants. :
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19-CV-610 (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This resolves Plaintiffs' letter motions for termination sanctions at Dkt. 182 and 184. Once again, Defendant Dash has frustrated completing his deposition, and the fact that he was the only person involved in the deposition who could not be clearly heard is highly suspect. That said, the Court cannot conclude from the transcript submitted, the videographer's affidavit (which is not notarized) and Plaintiff's affidavit (also not notarized), that the problems with Dash's audibility were intentionally caused by Dash purposefully speaking in a low voice behind the two masks he was wearing. The transcript reflects several instances where Dash's testimony is recorded, where Dash directly answered the question asked, and where Dash apparently brought the microphone in closer proximity to his face. There also are no recorded instances where Dash expressed his desire to be elsewhere or that he did not have time to be at the deposition. Accordingly, the motions for terminating sanctions are denied without prejudice. Defendants' request for sanctions is denied. The parties shall cooperate to complete Mr. Dash's deposition by March 10, 2021. The burden is on Dash to make sure that the deposition is completed without incident. Failure to comply with this order may result in sanctions, including termination sanctions.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
February 5, 2021

Copies transmitted this date to all counsel of record.